

**OPENING STATEMENT DELIVERED TO THE JOINT
STANDING COMMITTEE ON TREATIES' INQUIRY INTO
AUSTRALIA-HONG KONG FREE TRADE AGREEMENT
AND
THE INVESTMENT AGREEMENT BY MS ELIZABETH WARD,
CHIEF NEGOTIATOR, REGIONAL TRADE AGREEMENTS
DIVISION, DEPARTMENT OF FOREIGN AFFAIRS AND
TRADE
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Thank you Chair, for the opportunity to make an opening statement.

On 26 March 2019, the Minister for Trade, Tourism and Investment, Simon Birmingham, and his Hong Kong counterpart, Secretary for Commerce and Economic Development, Edward Yau, signed a Free Trade Agreement between Australia and the Hong Kong Special Administrative Region, and an associated Investment Agreement. The purpose of these agreements is to enshrine in law the certainty that Australian business has enjoyed with one of its most significant trade and investment partners.

Australia has a long-standing and substantial economic relationship with Hong Kong. It is our 12th-largest trading partner overall and the eighth-largest market for Australian exports of goods and services, worth \$13.4 billion in 2018. Hong Kong is our fifth-largest source of inwards investment with a stock of \$118.8 billion in 2018, and 11th-largest destination for Australian investment overseas with a stock of \$52 billion at the end of 2018.

Hong Kong is home to our largest business community in Asia, and our second largest community overseas. Australian businesses are drawn to Hong Kong because it has an efficient free port, free flow of capital, free flow of information across borders and a strong legal system to underpin good governance. Its location gives Australian companies an important base for commercial engagement with China and countries in the region.

Over the past two months, mass demonstrations in Hong Kong have been a cause of great concern. With a substantial stake in the success of Hong Kong, the Australian Government continues to monitor the situation closely. The Prime Minister and Foreign Minister have welcomed the Hong Kong Government's recent decision to formally withdraw the Extradition Bill as a positive step towards responding to the concerns of the Hong Kong people and have continued to urge further efforts to de-escalate,

establish dialogue and commit to negotiation as a basis for a lasting resolution.

Despite the protests, the purpose and import of the agreements negotiated here remain unchanged – to deliver architecture between the Australian and Hong Kong Governments to build certainty around our strong economic relationship. It is because the Australian Government supports a stable, prosperous Hong Kong, with a high degree of autonomy under the 'one country, two systems' framework, that the Government intends to proceed to ratify the agreements, which deliver the next milestone in this important relationship.

The legal authority for our negotiations is Hong Kong's Basic Law, which since 1997 has operated as a constitution and outlines – among other things – the respective roles and responsibilities of the Central People's Government and the Hong Kong Government in governing Hong Kong. Under the Basic Law, Hong Kong is a separate customs territory, which means it can enter into its own trade agreements with foreign states and regions and relevant international organisations, such as the WTO.

The FTA agreed between Australia and Hong Kong is high calibre, and comprehensive. Hong Kong does not impose tariffs on Australian products, but it has the legal right to do so under the WTO on a range of products (including gold, which is by far the largest export, valued at \$7 billion in 2018). The Australia-Hong Kong FTA ensures that Australia's existing duty-free access is 'locked in', providing certainty for Australian exporters that Hong Kong will continue to provide tariff-free entry into the future.

Hong Kong is Australia's seventh-largest services market, growing 8.7 per cent in the last five years, with exports worth \$3.1 billion in 2018. Through the FTA, Australia was able to secure commitments from Hong Kong to maintain its open market settings for Australian service providers. Hong Kong has also committed to ensure that its laws, regulations and procedures with respect to matters covered under the FTA are published online and administered in a consistent, impartial and reasonable manner. The services trade regime created by the FTA will provide enduring certainty to Australian service suppliers as they explore growth opportunities in Hong Kong's large, lucrative and competitive market, particularly in areas such as financial services, professional services, education and tourism. With large numbers of Australian and Hong Kong residents living and working in each other's jurisdictions, delivering certainty on temporary entry and length of stay for business people was also an important part of the negotiation.

In addition to market access, the FTA captures recent advances in international trade rule-making and future-proofs the ways in which Australian exporters and service suppliers can conduct business activities across Australia and Hong Kong.

In particular, high-quality commitments on e-commerce will drive the information economy between Australia and Hong Kong, providing Australian businesses with certainty, assisting to expand operational capacity and delivering a competitive edge for Australian business in Hong Kong and the region. The FTA contains the most advanced rules that Hong Kong has agreed to date governing electronic commerce with any country, which maximises the benefits of digital trade for businesses, while ensuring important privacy settings are protected.

The FTA and the Investment Agreement will together establish a renewed legal framework to govern the substantial two-way investment flows between Australia and Hong Kong. Recognising the importance of Hong Kong's investment in Australia, we have extended to Hong Kong the treatment provided to a number of Australia's FTA partners, increasing the threshold at which in non-sensitive sectors it is reviewed by the Foreign Investor Review Board. This will not impact on the Government's right to existing review processes concerning investment by government, or in sensitive sectors and residential and agricultural land.

The new Investment Agreement will terminate the bilateral investment treaty from 1993, which was used unsuccessfully by Phillip Morris Asia to challenge Australia's tobacco plain packaging measure. Reflecting contemporary developments in investment policy, the Investment Agreement includes modern investor protections and an updated Investor-State Dispute Settlement mechanism. Explicit safeguards included in the ISDS provisions of the Investment Agreement protect the Government's right to regulate on national security grounds, and for legitimate public policy objectives, including on privacy, public health, safety and the environment.

Together, these agreements are an important addition to Australia's bilateral and regional FTA architecture, advancing our goal of open trade and investment flows across Asia.

We're happy to answer any questions you have.